

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Robert Hanson on 10/26/09.

The claims have been amended as follows:

Claims 15-16 and 18-29 are cancelled.

Allowable Subject Matter

Claims 1-2, 4-8, 10-13, 30-35 are allowed.

Reasons for allowance

The rejection under 35 U.S.C 112 is withdrawn because the Applicants' argument in the response filed 6/19/09 is found persuasive.

In addition, the Office withdrew the rejection under U.S.C 103 (a) in the Office action filed 3/19/09 because of the unexpected results obtained by the instant invention.

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The non-obviousness is further supported by the teaching of Sheridan (1975, *Physiologia Plantarum* 33:151-156, abstract is attached) that maize callus grew more rapidly at 25 °C than at 30 °C or 35 °C (abstract). Therefore, the increase in *Agrobacterium*-mediated transformation efficiency in maize by increasing the selection temperature is unexpected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Li Zheng whose telephone number is 571-272-8031.

The examiner can normally be reached on Monday through Friday 9:00 AM - 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on 571-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ashwin Mehta/

Primary Examiner, Art Unit 1638